IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 68 OF 2007

MODERN EDUCATIONAL TRUST THROUGH TRUSTEES ... Appellant

Versus

MR. ALVARO JOAO REGO AND 5 ORS., ... Respondents

Mr. Nigel Da Costa Frias,Advocate for the appellant.
Mr. P. J. Ranga, Advocate for respondents.

Coram:- R. S. MOHITE, J.

Date:- 2nd August, 2007

P.C.

This is an appeal from order impugning ad interim order passed by the Civil Judge, Senior Division, Panji rejecting ad interim relief sought by the original plaintiffs. The plaintiff has filed the suit praying for certain mandatory injunctions in relation to work already done by the defendants No.1 to 3. For such mandatory injunctions in respect of work already done, prayer is made in prayer clause a,b,c & d in the plaint. In prayer clause e prayer of temporary injunction restraining the respondents No.1 to 3 from erecting any projection of any nature over his property bearing Chalta No.74 of P.T. 62, placing scaffolding or other material therein or interfering with the same in any manner whatsoever. While this application is yet to be heard, the plaintiff has filed another application dated 25.7.2007 seeking temporary injunction against the respondents No. 1 to 3 from carrying out construction over plaintiff's property and laying sewage pipes therein. The defendant has filed reply denying that they carrying out any constructions in the plaintiff's property. As far as the relief sought relating to sewage pipeline is concerned it is seen that the same is covered by prayer b in the plaint and injunction which is sought in relation to the same is a mandatory injunction which implies that the work

was already completed, when the suit was filed, I am informed that the main application is fixed day after tomorrow. This is not fit case to interfere. Hence, appeal from order is disposed off. It is made clear that the trial court will decide the matter on its own merits. It is also made clear that any order passed by the Court, will not preclude the Municipal Corporation from taking such action, if it found any structure has been erected in violation of rule.

R. S. MOHITE, J.

SMA